



**MINUTES OF THE GILA COUNTY
BOARD OF ADJUSTMENT
Thursday November 21, 2019
9:00 AM**

GILA COUNTY BOARD OF SUPERVISORS CONFERENCE ROOM
610 E. Highway 260, Payson, AZ
GILA COUNTY BOARD OF SUPERVISORS CONFERENCE ROOM
1400 E. Ash St., Globe, AZ

REGULAR MEETING

1. The meeting was called to order at 9:00 A.M. by Chairman Mickie Nye.
2. Pledge of Allegiance was led by Bill Marshall.
3. Roll Call: Shealene Loya did the roll call; Mickie Nye (in Globe), Bill Marshall (in Globe), and Mary Lou Myers (in Payson). A quorum is present.

Community Development Staff Members Present: Senior Planner, Michelle Dahlke, Administrative Assistant, Shealene Loya and Director, Scott Buzan.

4. Review and approval of the Minutes of the Board of Adjustment Hearing on September 19, 2019.
5. **Director/Planner Communication:** At any time during this meeting of the Planning and Zoning Commission, the Director and/or Planner of Community Development may present a brief summary of current events. No action may be taken.

Scott Buzan took this opportunity to apologize to the property owner and board members for staff not posting the notification of the Board of Adjustment meeting in the proper amount of time.

Public Hearing:

6. AV-19-24 Beth Pierson

An appeal has been filed against the denial of the Administrative Variance application. The applicant wishes to permit an existing RV carport within the front yard of her property. This property is located at 3694 North Mistletoe in Pine, Arizona (APN # 301-66-066A) and zoned Residential One District Limited (R1L).

Mrs. Dahlke opened the public hearing by explaining to the Board that because the property was not properly posted in time per regulations set in the Arizona Revised Statutes, the Board will not be able to make a decision on the case, but instead will hear from the property owners and neighbors wishing to comment on the case. The meeting will need to be continued to the next month to allow staff to properly post the property.

Mrs. Pierson stated that she had some questions for the Board and staff in regard to the posting and whether a decision could be made that day. It was her understanding that since the sign posted on the property stated that it was posted on November 6th – 15 days prior to the Board of Adjustment meeting- that a decision could be made.

Mr. Buzan and Mrs. Dahlke explained to Mrs. Pierson that although the sign was dated November 6th, the property was not actually posted until November 8th, which does not meet the 15-day requirement for postings.

Mrs. Pierson also wanted to clarify that this was also the reason her case was postponed from the October Board of Adjustment meeting.

Mrs. Loya clarified that the case was postponed in October due to the legal advertisement in the local newspaper not being sent in to the newspaper in time to meet their deadline.

Mrs. Pierson inquired if a decision from the Board could be made that day rather than extending the case to the December Board of Adjustment meeting.

Mr. Buzan explained that because Arizona statute requires that postings be made a minimum of 15-days prior to the scheduled meeting, the Board could not make a final decision on the case. He asked Chairman Nye how he would like to proceed with the meeting.

Chairman Nye explained that Community Development staff will make their presentation about the case and then open it up for anyone in attendance that wished to comment on the case. Chairman Nye asked if there was a way to have a special meeting for this case rather than waiting until the next regular Board of Adjustment meeting in December.

A suggestion of having a special meeting on December 12th was presented. The Board and staff broke out in to a discussion on what deadlines needed to be met in order to host the special meeting.

Mrs. Dahlke was urged to begin her presentation on the case. Mrs. Dahlke began by explaining to the Board that Mrs. Pierson applied for an Administrative Variance to permit an existing RV carport 4' 9" from the front property line and 6" from the side property line where 20' is the minimum requirement for the front yard and 7' for the side yard. The applicant believed that her property line was the edge of Mistletoe Dr. which would make the distance between the edge of the street and the RV carport 20'. The Administrative Variance was denied for several reasons, for which another RV carport in the area was denied an Administrative Variance. First, the RV carport is extremely visible from the right of way. Mrs. Dahlke also did not want to set a negative precedent in the area due to RV carports being so tall and clearly visible on a property. The applicant's RV carport had been previously looked at due to some complaints from neighbors and mainly because of visibility reasons, the Administrative Variance was denied.

Mrs. Dahlke also explained that the existing RV carport was also never permitted to be constructed. If the applicant had gone through the proper steps of obtaining a building permit for the structure, staff could have then verified setbacks prior to issuance of the permit.

Mrs. Dahlke asked the Board of uphold staff's decision to deny the Administrative Variance, but informed that Board that if they do not uphold the denial and allow the RV carport to be permitted, the property owner will still need to obtain a Variance to allow the structure to be 4' 9" from the front property line. If the Board chooses to uphold the denial, the RV carport will have to be moved

from its current location in an area that meets setback requirements and a building permit will also need to be issued.

Chairman Nye asked Michelle how this case came to be known by County staff.

Mrs. Dahlke stated that a previous case for an RV carport had come before the Board by a Mrs. Cox who appealed her denial for an Administrative Variance to permit an RV carport in front of her property. The denial triggered a lot of addresses being provided to Community Development with potential violations for RV carports, all of which have been investigated and have either been dealt with or are currently being dealt with.

Chairman Nye opened the floor to anyone in attendance who wished to speak to the Board.

The property owner, Beth Pierson, was the first to speak. She explained that she wanted to touch on 2 topics- the Gila County Zoning Ordinance referenced in the denial letter and staff opinions.

Mrs. Pierson explained that according to the Zoning Ordinance, she believes there is doubt in regard to the phrase "front yard" in relation to where the car port is located. The carport is located on the far south side of the property, described as a "side yard", which is defined in the Zoning Ordinance as "a yard abutting the portion of the side lot line between the front and rear yards." Mrs. Pierson directed the Board to many examples through the agenda packet that included photos of the RV carport, site plan and property topography. According to Mrs. Pierson, the property is of an irregular shape and the entire north side of the property is unusable due to creek beds, washes and slopes, which leaves the only buildable land on the south side where the existing RV carport is located. Also, Mrs. Pierson directed the Board to a photo that showed they met the 3' minimum setback requirement that a zoning inspector may grant according to the Zoning Ordinance.

In regard to staff's opinion of the RV carport, Mrs. Pierson stated that although staff believes there is adequate room to relocate the RV carport, they have future plans for the property including a garage and breezeway. Mrs. Pierson also addressed that moving the carport back would hinder the access to the property and that there are many other carports around the neighborhood that are adjacent to the roadway. Mrs. Pierson stated that she is in compliance with the Zoning Ordinance and request that the Administrative Variance be granted.

Chairman Nye asked Mrs. Pierson if the garage indicated on the site plan has been built. Mrs. Pierson answered with no, that the garage was a future plan for the property.

Mrs. Myers stated that after purchasing the property in 2015, the property owners had a record of survey done which would have marked the property lines of the property, indicating to the property owners that they must remain within their setbacks based on those property lines. Mrs. Myers asked Mrs. Pierson if a licensed builder built the RV carport for them to which Mrs. Pierson answered no. Mrs. Myers continued by stating she was unsure why a permit was not applied for in order to construct the carport. She also stated that she believes there to be adequate room to move the carport toward the back of the property to which Mrs. Pierson claimed that there was not.

Mr. Marshall asked if the RV carport could be attached to the proposed garage that may be constructed in the future.

Mrs. Pierson stated that there would not be sufficient room to attach the RV carport to the future garage due to the house being placed toward the back of the property.

Geri Reski was the next member of the public to speak to the Commission. She stated that she is a neighbor of Mrs. Pierson's and believes that their structure is tasteful, doesn't block any views and she and her husband believe that the structure should be allowed to remain where it currently sits.

Brenda Hamrick also spoke on behalf of Mrs. Pierson. She agreed with Mrs. Reski that the appearance of the RV carport is very nice and that it should be allowed to remain where it is already existing.

Glyn Phillips also spoke in favor of Mrs. Pierson, stating that he has no problem with the structure and believes it should remain where it is.

Mrs. Myers stated that her problem is not with the beauty of the structure, but rather that no permit was taken out to construct the structure and how close it is to the road.

Chairman Nye asked Mrs. Pierson who had determined where the RV carport was going to be placed.

Mrs. Pierson explained that when she first purchased the RV, she placed the RV on a gravel pad in the location it sits now. She did not want to have to drive over her asphalt driveway for fear of cracking it and she didn't want to have to remove the trees that are located right behind the carport.

Mrs. Dahlke explained to the Commission that although Mrs. Pierson stated that the carport is in the side yard rather than the front yard, staff defines the area as the front yard per the Zoning Ordinance and that a 20 foot front yard setback is required and Mrs. Pierson only has a 4'9" setback as the RV carport sits now.

Chairman Nye asked Mrs. Dahlke if the address of the property is what defines where the front yard is versus side or rear yard.

Mrs. Dahlke indicated that the front yard is generally the property line that fronts on to a street.

Mr. Marshall indicated that in some circumstances, after a survey is done on a property, placement of lot lines can change greatly and put some residences in violation of setbacks. Mrs. Myers indicated that the applicants had a survey done on their property prior to construction of the carport.

Mrs. Dahlke made it clear to the Board that the side yard setback can be approved through the Administrative Variance process, but the front yard setback has to be approved through a Variance. She also added that staff cannot take into consideration future projects on a property when determining if the RV carport could be moved to a different location on the property.

Chairman Nye voiced concerns regarding setting a precedent for future cases if the Board were to approve the carport.

Mrs. Dahlke stated that from a planning perspective, approving this case could set a negative precedent, but each case that comes before the Board is looked at and analyzed on a case by case basis.

Upon motion from Mr. Marshall, seconded by Mrs. Myers, the Board unanimously voted to continue the case to a special meeting held on December 12, 2019.

7. Adjournment. The meeting was suspended at 9:41 A.M. and set to continue at a special meeting held on December 12, 2019.